HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No.12240 OF 2005

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Between:
Thoma Educational Socieity, Flat No.16, Shalivahana Apt.
Shalivahana Nagar rep. by its Secretary T.Jaya Raj S/o T.David
And another

…Petitioners

A n d

Convenor, Ed.CET and Another

…Respondents.

:: **ORDER** ::

Counsel for the Petitioner : Sri V.Ramakrishna Reddy

Counsel for Respondents : Advocate General assisted by Government Pleader for School Education

DATED : 27.09.2006

Per G.V.Seethapathy, J

This is a petition for quashing communication dated 25/30.5.2005 vide which the Convenor, Ed-CET, 2004 and Regional Joint Director of School Education, Kakinada (hereinafter described as 'the Regional Joint Director) approved the select list along with the waiting list for admission of non-minority candidates in minority colleges including petitioner No.2 – Jakkidi College of Education, Shamshabad, Ranga Reddy District. The other prayer made in the writ petition is to quash communication dated 7.6.2005 vide which the Regional Joint Director called upon petitioner No.2 to show cause against its proposed de-recognition, cancellation of minority status and affiliation on the basis of the complaints received from the candidates who were denied admission in B.Ed. course.

Petitioner No.1 is a Society registered under the Societies Registration Act, 1860. Petitioner No.2 is a minority educational institution established by petitioner No.1. For academic year 2004-2005, the State Government issued G.O.Ms.No.57, School Education (Training-A1) Department, dated 21.3.2005 and laid down the criteria for determining the minority status of the candidates for admission in the minority colleges and the procedure for filling the unfilled seats of management quota. The same was challenged in a batch of writ petitions. By an order dated 19.4.2005, the learned Single Judge dismissed Writ Petition Nos.5750, 6162 and 8348 of 2005. Writ Appeal No.928 of 2005 filed against the order of the learned Single

Judge was dismissed by the Division Bench on 23.8.2006 along with other connected matters filed by the minority educational institutions questioning the legality of G.O.Ms.No.57, dated 21.3.2005.

During the pendency of Writ Appeal No.928 of 2005 and batch, the Division Bench passed interim order dated 27.4.2005 in WAMP.No.1767 of 2005 and batch. The relevant extracts of that order are reproduced below:

> "Therefore, we direct that the minority institutions shall be entitled to make admissions in accordance with the G.O., i.e., 85% from the minority candidates and 15% as management quota from any community. However, if any seats remain unfilled from 85% of the minority quota, they shall also be filled up by the management of respective colleges from the Ed.CET list strictly in accordance with the merit after giving wide publicity to the methodology to be adopted for making the selection. After the selection is made, that shall not be published before furnishing a copy to the Convenor of Ed.CET, who shall ensure that the selection has been made in accordance with the merit. It shall be open for him to bring to the notice of the management to cancel the admission of a candidate, if it is not made in accordance with the merit and the view of the Convenor in such a case shall be final.
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> Coming to the second condition relating to the Conversions, we feel it will be proper and just, at this stage, to direct that the religion of a candidate shall be determined on the basis of his/her S.S.C certificate or any equivalent certificate."

After dismissal of Writ Petition No.5750 of 2005 and connected matters, the Regional Joint Director issued communication dated 25/30.5.2005, vide which he approved the select list and the waiting list for admission of non-minority candidates in minority institutions

against the left over seats. It, however, appears that petitioner No.2 did not make admissions from out of the lists approved by the Regional Joint Director. Instead, it made admissions violating the merit list sent along with communication dated 25/30.5.2005. Some of the candidates, who were denied admission, complained to the Regional Joint Director, who then issued notice dated 7.6.2005 to petitioner No.2 requiring it to show cause as to why the College should not be recommended for de-recognition, cancellation of minority status and affiliation.

The petitioners have challenged the impugned communications primarily on the ground that the same are contrary to G.O.Ms.No.26, School Education (Training-A1) Department, dated 3.2.2005. In the affidavit filed by Sri T.Jaya Raj, Secretary of petitioner No.1 and Correspondent of petitioner No.2, it has been averred that admissions against the left over seats were made strictly in accordance with the interim order passed by the Division Bench in WAMP.No.1767 of 2005 and batch in Writ Appeal No.928 of 2005 and connected matters and, therefore, the Regional Joint Director does not have the jurisdiction, power or authority to proceed against them.

We have heard learned counsel for the parties. In our opinion, interim order dated 27.4.2005 passed in WAMP.No.1767 of 2005 and batch in Writ Appeal No.928 of 2005 and batch was meant to make an interim arrangement pending disposal of the writ appeals. With the dismissal of Writ Appeal No.928 of 2005 and batch, the interim order lost its efficacy. Therefore, petitioners cannot rely on the interim order for justifying their action to make admissions ignoring the merit list approved by the Regional Joint Director.

That apart, a bare reading of order dated 27.4.2005 passed by the Division Bench shows that the minority institutions were not given

right to make admissions ignoring the merit. Rather, the Court had made it clear that admissions must be made strictly in accordance with the merit after giving wide publicity to the methodology adopted for making selection. Petitioner No.2 is not shown to have made admissions as per merit after giving publicity. Therefore, its grievance against the show cause notice issued by the Regional Joint Director cannot but be treated as misconceived and the writ petition is liable to be dismissed. Ordered accordingly.

G.V.SEETHAPATHY, J.

G.S.SINGHVI, C.J.

Dated 27th September 2006

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AND
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